

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION**

ETHICON ENDO-SURGERY, INC. and
ETHICON ENDO-SURGERY, LLC,

Plaintiffs,

v.

COVIDIEN, INC. and COVIDIEN LP,

Defendants.

Civil Action No.: 1:11-cv-871

Judge Timothy S. Black

**FILED UNDER SEAL PURSUANT
TO PROTECTIVE ORDER**

**DECLARATION OF MATTHEW GANAS IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF NON-
INFRINGEMENT OF U.S. PATENT NO. 5,989,275**

I, Matthew Ganas, declare and aver as follows:

1. I am an attorney with the law firm of DLA Piper LLP ("DLA Piper"), and am counsel to Defendants Covidien, Inc. and Covidien LP ("Covidien") in the above-titled action. I am licensed to practice law in the State of New York, and have been admitted by the Court in this action *pro hac vice*. This Declaration is made in support of Covidien's Motion for Summary Judgment (the "Motion") of Non-Infringement of U.S. Patent No. 5,989,275 (the "275 Patent"). I have personal knowledge of the statements herein and could competently testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of U.S. Patent No. 5,989,275.

3. Attached hereto as Exhibit B is a true and correct copy of selected pages from the transcript of the Videotaped Deposition of Mark Schafer, taken on October 7, 2013.

4. Attached hereto as Exhibit C is a true and correct copy of selected pages from the Expert Report of Mark E. Schafer, Ph.D., dated August 19, 2013.

5. Attached hereto as Exhibit D is a true and correct copy of selected pages selected from the transcript of the Videotaped Deposition of William Durfee, Ph.D. taken on October 8, 2013.

6. Attached hereto as Exhibit E is a true and correct copy of Engineering Change Form, EC Title: Issue of new revision of DRW, RTS, and MNP's for the Milwaukee Disposable (DRW-00223-00R06, RTS-00223-00R09, MNP-00011-00R07, MNP-00022-00R08, MNP-00023-00R06 and MNP-00024-00R08), dated December 7, 2010 (Bates numbered COV0374362-454).

7. Attached hereto as Exhibit F is a true and correct copy of selected pages from the Rebuttal Expert Report of Dr. William Durfee, Ph.D, dated September 23, 2013.

8. Attached hereto as Exhibit G is a true and correct copy of selected pages from the transcript of the Deposition of Robert Stoddard, taken on July 18, 2013.

9. Attached hereto as Exhibit H is a true and correct copy of an Engineering Change Form, EC Title: Issue of Disposable DFMEA, dated December 3, 2010 (Bates Numbered COV0531844-918).

10. Attached hereto as Exhibit I is a true and correct copy of Plaintiff's Supplemental Response to Interrogatory No. 2, dated February 13, 2013.

11. Attached hereto as Exhibit J is a true and correct copy of selected pages from the transcript of the Deposition of Kevin Houser 30(b)(6) – Vol. II, taken on June 13, 2013.

12. Attached hereto as Exhibit K is a true and correct copy of selected pages from Defendants' First Set of Interrogatories Propounded on Ethicon Endo-Surgery, Inc. and Ethicon Endo-Surgery, LLC, dated September 6, 2012.

13. Attached hereto as Exhibit L is a true and accurate copy of selected pages from Plaintiffs' Objections and Responses to Defendants' First Set of Interrogatories, dated October 18, 2012.

14. Attached hereto as Exhibit M is a true and accurate copy of selected pages Plaintiffs' Supplemental Responses to Interrogatory Nos. 3, 6, 10 and 11, dated December 10, 2012.

15. Attached hereto as Exhibit N is a true and correct copy of selected pages from the transcript of the Deposition of Kevin Houser 30(b)(6) – Vol. IV, taken on July 16, 2013.

16. Attached hereto as Exhibit O is a true and correct copy of selected pages from Plaintiffs' Disclosure of Asserted Claims and Infringement Contentions, dated June 13, 2012.

17. Attached hereto as Exhibit P is a true and correct copy of selected pages from Plaintiffs' Supplemental Disclosure of Asserted Claims and Infringement Contentions, dated June 10, 2013.

I declare under penalty of perjury that the foregoing is true and correct. This Declaration was made on October 21, 2013, in New York, New York.

Dated: October 21, 2013

/s/ Matthew Ganas
MATTHEW GANAS

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